

The seal of the University of Cambridge, featuring a shield with a cross, a book, and a lion, surrounded by the text 'UNIVERSITY OF CAMBRIDGE' and 'FUND. 1209'.

No. 13-0729 RI

1. At all times relevant to these findings, Coolman lived in Cameron, Missouri.
2. During 2003, Coolman worked for the Cameron R-I School District and received wages for his services. These wages totaled \$39,526.

3. In July 2003, Coolman transferred real property through Nebraska Title Company and realized \$33,000 in gross proceeds from the sale.

4. Coolman's 2003 federal adjusted gross income ("FAGI") was \$72,526.

5. Coolman did not file a Missouri income tax return for 2003.

6. During 2008, Coolman worked for the Cameron R-I School District and received wages for his services. These wages totaled \$51,617.

7. Coolman's 2008 FAGI was \$51,719.

8. Coolman did not file a Missouri income tax return for 2008.

9. The Director received information from the United States Department of the Treasury, Internal Revenue Service ("IRS") sufficient to calculate Coolman's Missouri income tax liability for 2003 and 2008.

10. On October 13, 2010, the Director sent Coolman a Notice of Proposed Changes indicating that based on the IRS's report of Coolman's FAGI for 2003 and his failure to file a Missouri return for 2003, the Director had calculated that Coolman owed \$3,716 in Missouri income tax for 2003, plus additions and interest.

11. On December 1, 2010, the Director sent Coolman a Notice of Deficiency as to payment for his 2003 Missouri income tax in the amount of \$3,716, plus additions and interest.

12. Upon Coolman's timely protest of the Notice of Deficiency, the Director issued his Notice of Adjustment on February 23, 2011, recalculating Coolman's 2003 Missouri income tax owed as \$2,265, plus additions and interest. The adjustment was to account for 2003 Missouri income tax withheld by Coolman's employer, and reflected on his W-2, of \$1,451.

13. On August 12, 2011, the Director sent Coolman a Request for Tax Return, indicating the total 2008 Missouri income tax due was \$2,425, plus additions and interest.

14. On February 22, 2012, the Director sent Coolman a Notice of Deficiency for 2008 Missouri income tax in the amount of \$2,425, plus additions and interest.

15. On May 23, 2012, Coolman protested the Notice of Deficiency for 2008 Missouri income tax, and the Director issued his acknowledgement of the protest on July 26, 2012.

16. On August 8, 2012, the Director issued a Notice of Proposed Changes, recalculating the total 2008 Missouri income tax due as \$454, plus additions and interest. The reduction was to account for 2008 Missouri income tax withheld by Coolman's employer and reflected on his W-2 of \$1,971.

17. On May 11, 2012, Coolman sent a letter to the Director with a check for \$3,803.66 attached, and the check was accepted by the Director and applied to Coolman's 2003 tax liability.

18. On July 20, 2012, Coolman wrote a check to the Director in the amount of \$3,302.08, but the Director returned it to Coolman on August 6, 2012 without presenting it for payment.

19. On June 26, 2012, the Director sent a Notice of Debt Offset for a \$2 payment deducted from a refund of 2003 Missouri income tax overpaid.

20. On August 7, 2012, the Director intercepted \$429.39 from Coolman's 2009 tax refund and applied it to his 2008 Missouri tax liability.

21. In response to Coolman's protests, the Director issued his final decision on April 3, 2013, and Coolman filed this appeal.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions. Section 621.050.1. Our review is *de novo*.² Our duty in a tax case is not to review the

¹Statutory references are to the 2000 Revised Statutes of Missouri, unless otherwise noted.

²*J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

Director's decision, but to find the facts and to determine, by the application of existing law to those facts, the taxpayer's lawful liability. Coolman bears the burden to show his tax liability for 2003 and 2008 is something other than what the Director assessed.³ Instead, he argued the Director had no basis for assessing Missouri income tax at all.

Section 143.011 provides, in relevant part: "A tax is hereby imposed for every taxable year on the Missouri taxable income of every resident." For computation of an individual resident's liability, § 143.111 provides:

The Missouri taxable income of a resident shall be such resident's Missouri adjusted gross income less:

- (1) Either the Missouri standard deduction or the Missouri itemized deduction;
- (2) The Missouri deduction for personal exemptions;
- (3) The Missouri deduction for dependency exemptions;
- (4) The deduction for federal income taxes provided in section 143.171; and
- (5) The deduction for a self-employed individual's health insurance costs provided in section 143.113.

Section 143.121.1 provides that the Missouri adjusted gross income of a resident shall be his FAGI, subject to certain modifications not applicable in this case. Section 143.481(1) provides:

An income tax return...shall be made by the following:

- (1) Every resident individual who has a Missouri adjusted gross income of one thousand two hundred dollars or more and who is required to file a federal income tax return[.]

Missouri may tax the income of a resident regardless of the source from which the income is earned.⁴ Coolman had income of more than \$1,200 during 2003 and during 2008.

³Sections 621.050.2 and 143.661.

⁴*Oklahoma Tax Comm'n v. Chickasaw Nation*, 115 S. Ct. 2214, 2222 (1995); *Lloyd v. Director of Revenue*, 851 S.W.2d 519, 522 (Mo. banc 1993).

Because he was a resident of Missouri in 2003 and 2008, he is subject to Missouri income tax and was required to file a return for each of those years.

For purposes of our determination of Coolman's liability, the uncontroverted evidence indicated Coolman's 2003 FAGI was \$72,526, and his 2008 FAGI was \$51,719, as reported by the IRS. From those figures, we allow the Missouri standard deduction of \$4,750 for 2003 and \$5,450 for 2008⁵ and the deduction for personal exemption of \$2,100.⁶ Based on the foregoing, we conclude that Coolman's 2003 Missouri taxable income was \$65, 676 ($\$72,526 - \$4,750 - \$2,100$), and his 2008 Missouri taxable income was \$44,169 ($\$51,719 - \$5,450 - \$2,100$).

Section 143.011 prescribes the rate of Missouri income tax on taxable income over \$9,000 to be \$315 plus 6% of the excess over \$9,000. Thus, we calculate Coolman's 2003 tax liability as \$3,715.56 ($\$65,676 - \$9,000 = \$56,676 \times .06 = \$3,400.56 + \315). Coolman's tax liability for 2008 was \$2,425.14 ($\$44,169 - \$9,000 = \$35,169 \times .06 = \$2,110.14 + \315). Coolman was liable for these amounts in 2003 and 2008, but we must offset them by taxes withheld by his employer. The remainder of the unpaid tax after withholdings for 2003 was \$2,265 ($\$3,715.56 - \$1,451 = \$2,264.56$). The remainder for 2008 was \$454 ($\$2,425.14 - \$1,971 = \454.14).

Additions

Additions to tax are imposed by statute as a consequence for failure to file a return "on or before the fifteenth day of the fourth month following the close" of the tax year.⁷

Section 143.741.1 provides:

In case of failure to file any return required under sections 143.111 to 143.996 on the date prescribed therefor..., unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as

⁵ Sections 143.111(1) and 143.131.

⁶ Sections 143.111(2) and 143.151.

⁷Section 143.511.

tax on such return five percent of the amount of such tax if the failure is not for more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five percent in the aggregate...

Section 143.751 provides:

1. If any part of a deficiency is due to negligence or intentional disregard of rules and regulations (but without intent to defraud) there shall be added to the tax an amount equal to five percent of the deficiency. The director shall apprise the taxpayer of the factual basis for the finding of negligence, or the specific rules or regulations disregarded, at the time the director issues a proposed assessment. . . .

Negligence is “the failure to make a reasonable attempt to comply with the state tax laws.”⁸ Coolman presented us with no evidence that he made an attempt to comply with Missouri tax law requiring him to file a return every year. We infer from his arguments that his noncompliance was both willful and intentional. An addition to tax is justified here. We impose an addition of 25%, or \$556.25 for 2003 and \$113.50 for 2008. The combined total liability for 2003, before interest, was $\$2,265 + 556.25 = \$2,821.25$. The combined total liability for 2008, before interest, was $\$454 + \$113.50 = \$567.50$.

We must now provide an accounting for the payments (voluntary and intercepted offsets) the Director received from Coolman. Based on Findings of Fact 19 and 20, the Director intercepted refund proceeds of \$431.39 and applied them to the 2008 balance owed. We also take into account Coolman’s check for \$3,803.66, which the Director applied to the 2003 balance owed. Since we have determined that taxes and additions for 2003 were only \$2,821.25, Coolman was due the excess of \$982.41, which we apply to the \$567.50 in taxes and additions to tax for 2008. We are left with an excess, after taxes and additions to tax for both years, of \$414.91 after applying the funds from Coolman’s check tendered in May 2012. Further, we find

⁸ *Hiatt v. Director of Revenue*, 899 S.W.2d 870, 872 (Mo. banc 1995).

that the Director has collected another \$431.39 in excess payments from the debt offset interceptions in June and August of 2012. The Director is holding \$846.30 in excess funds collected from Coolman.

Interest

Section 143.811 imposes interest on an overpayment of income tax, from the date of the deposit, at the rate determined by § 32.065. That deposit occurred on May 11, 2012.

Summary

Coolman is entitled to a refund of \$846.30, plus interest at the statutory rate.

SO ORDERED on May 2, 2014.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner